

SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 208472

Present:

- versus -

BERSAMIN, C.J.,
PERLAS-BERNABE,*
GESMUNDO,**
CARANDANG, and
ZALAMEDA,* JJ.**

EDUARDO LACDAN y PEREZ @
"Edwin" and ROMUALDO
VIERNEZA y BONDOC @ "Ulo",
Accused-Appellants.

Promulgated:

OCT 14 2019

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DECISION

CARANDANG, J.:

Before this Court is an ordinary appeal¹ filed by Eduardo Lacdan y Perez @ "Edwin" (Lacdan) and Romualdo Vierneza y Bondoc @ "Ulo" (Vierneza; collectively, accused-appellants) assailing the Decision² dated January 16, 2012 of the Court of Appeals (CA) in CA-G.R. CR-HC No. 03717, which affirmed the Judgment³ dated November 25, 2008 of the Regional Trial Court of San Pedro, Laguna, Branch 31 (RTC) finding accused-appellants guilty beyond reasonable doubt of violation of Section 5 of Republic Act No. (R.A.) 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," and sentencing them to suffer the penalty of life imprisonment and to pay a fine of ₱500,000.00 each.

* On official business.

** Acting Working Chairperson.

*** Designated as Additional Member of the First Division per Special Order³ No. 2712.

¹ *Rollo*, at pp. 15-16.

² Penned by Associate Justice Noel G. Tijam (Former Member of this Court), with Associate Justices Romeo F. Barza and Edwin D. Sorongon, concurring; id at 2-14.

³ *CA rollo*, pp. 36-44.

Facts of the Case

On February 11, 2004, an Information⁴ was filed against accused-appellants charging them with violation of Section 5, in relation to Section 26 of R.A. 9165, involving 10.03 grams of *shabu*.

The prosecution's version of the incident, as culled from the records, are as follows:

On February 9, 2004, at around 5:00 p.m., a confidential informant went to Philippine Drug Enforcement Agency, Regional Office, Calabarzon (PDEA), stationed at Camp Vicente Lim in Calamba City, Laguna to relay to Regional Director Sgt. Amado Marquez (Sgt. Marquez) that he was able to negotiate a drug deal with accused-appellants involving 10.03 grams of *shabu* worth ₱18,000.00.⁵

Sgt. Marquez referred the matter to Police Senior Inspector Julius Ceasar Ablang (S/Insp. Ablang) who verified the information and formed a buy-bust team to conduct the operation against accused-appellants.⁶ A team composed of S/Insp. Ablang as the team leader, Inspector Josefino Ligan (Insp. Ligan) as Assistant Team Leader, SPO4 Marianito Villanueva (SPO4 Villanueva) as arresting officer, PO3 Danilo Liona (PO3 Liona) as member and PO3 Marino Garcia (PO3 Garcia) as the poseur-buyer was formed.⁷ It was agreed that once the arresting officer sees the poseur-buyer give the buy-bust money to accused-appellants, the team would come forward and arrest them. S/Insp. Ablang gave PO3 Garcia two pieces of genuine ₱500.00 bills marked with "MAG" while the rest of the ₱18,000.00 used to purchase the *shabu* consisted of "boodle" money. The boodle money was placed in between the two genuine ₱500.00 bills.⁸

At around 3:00 a.m. of February 10, 2004, the team proceeded to the San Pedro Town Center in San Pedro, Laguna and arrived at the parking lot at around 4:00 a.m. The confidential informant, through cellular phone, was in constant communication with accused-appellants.⁹ After one and a half hours of waiting, PO3 Garcia saw accused-appellants disembark from a tricycle. The confidential informant introduced PO3 Garcia to accused-appellants who asked if the former had with him the ₱18,000.00 agreed upon. PO3 Garcia pulled out the buy-bust money from his pocket and flashed it to accused-appellants. Vierneza pulled out from his pocket one big heat-sealed transparent sachet containing white crystalline substance and handed the same to PO3 Garcia. When Lacdan demanded payment for the substance, PO3 Garcia handed him the buy-bust money.¹⁰

⁴ Records, pp. 1-3.

⁵ *Rollo*, p. 4.

⁶ Id.

⁷ Id at 5.

⁸ Id.

⁹ Id.

¹⁰ Id. at 5-6.

Upon seeing that the sale had been consummated, the rest of the buy-bust team rushed accused-appellants and introduced themselves as members of the PDEA. Upon having been apprised of their constitutional rights, accused-appellants were brought to the PDEA Office in Camp Vicente Lim. At the PDEA Office, PO3 Garcia placed his initials on the plastic sachet and inventoried the same in the presence of an elected official and a representative from media. Thereafter, the plastic sachet was submitted to the crime laboratory for testing. The forensic examination yielded a positive result that the white crystalline substance contained in the confiscated plastic sachet was indeed *shabu*.¹¹

The defense presented accused-appellants and two others as their witnesses.

Lacdan testified that on February 10, 2004, he was resting at home when he received a call from a certain "Karen" asking him to go to Sogo Hotel at San Pedro, Laguna. When Lacdan arrived at Sogo Hotel, he proceeded to Room 122 and was surprised to see Karen with a companion inside who pointed a gun at him. Thereafter, two more men entered the room and forced Lacdan to bring them to a place where a certain "Arnel" lives. When they arrived at Arnel's place, there were about five to six people conversing and were also arrested. They were all brought to Canlubang, Laguna where they were detained.¹²

Vierneza, for his part, stated that at the time of the incident, he was gathering food for his pigs when he saw four to five people conversing. All of a sudden, a Toyota Revo stopped by and five armed men alighted therefrom. Someone poked a gun at Vierneza who forced him to ride the Revo. While on board the Revo, he overheard the men saying, "*hindi naman ito ang tao*."¹³

The two other witnesses corroborated Vierneza's testimony.¹⁴

On November 25, 2008, the RTC rendered its Decision finding that the elements of illegal sale of *shabu* were proven beyond reasonable doubt by the prosecution.¹⁵ The RTC gave more credence to the testimonies of the police officers who were presumed to have regularly performed their duties than the accounts of accused-appellants.¹⁶

Aggrieved by their conviction, accused-appellants filed an appeal to the CA. On January 16, 2012, the CA affirmed their conviction. It was determined that not only did the prosecution establish the elements of illegal sale of *shabu* but also the observance of the chain of custody rule. The CA concluded that through the testimony of SPO4 Villanueva, it was proved that an illegal sale of *shabu* transpired between accused-appellants as sellers and PO3 Garcia as

¹¹ Id. at 6.

¹² Id. at 7.

¹³ Id.

¹⁴ CA *rollo*, pp. 40-41.

¹⁵ Id. at 44.

¹⁶ Id. at 43-44.

poseur-buyer. The sachet of *shabu* was thereafter submitted to the crime laboratory for testing.¹⁷ This was concluded as sufficient to prove the *corpus delicti* of the crime.

In their Supplemental Brief,¹⁸ accused-appellants questioned the lack of compliance with Section 21(a) of the Implementing Rules and Regulations of R.A. 9165 in the conduct of the buy-bust operation and their subsequent arrest. Specifically, accused-appellants claimed that the illicit drugs allegedly recovered from them were not photographed and the inventory was not done in the presence of a representative from the media, a representative from the Department of Justice (DOJ) and an elected official.

The Office of the Solicitor General (OSG) manifested that they would no longer file a supplemental brief and instead, adopted the Appellee's Brief it filed to the CA.

Issue

The sole issue in this case is whether or not the CA erred in upholding the conviction of accused-appellants for violation of Section 5, Article II of R.A. 9165.

Our Ruling

The appeal is meritorious.

Before going into the discussion on the non-compliance with the requirements for the proper custody of seized dangerous drugs under R.A. 9165, the Court must first re-examine the penchant of police officers in using boodle money in the conduct of buy-bust operations. "Boodle" money means bundles of cut-out newspapers in the size of money bills. They are not counterfeit money so they do not appear as though they are genuine bills. Hence, even to an ordinary person who sees genuine money on a regular basis, they would appear obvious as newspaper cut-outs and not genuine peso bills.

In this case, it was established that PO3 Garcia allegedly paid ₱18,000.00 for 10.03 grams of *shabu* using two genuine ₱500.00 bills with the remaining boodle money to have been placed in between the two ₱500.00 bills. When asked by Lacdan if he had the money, PO3 Garcia showed the money to him. Lacdan gave a hand signal and immediately, Vierneza pulled out from his pocket the plastic sachet and gave it to PO3 Garcia. PO3 Garcia then handed the two ₱500.00 bills and the boodle money to Lacdan. It was also established that the alleged buy-bust operation was made at around 6:00 a.m., which was already bright and the sun having already risen. Hence, it is more in accord with human experience that the ₱18,000.00 with only two genuine ₱500.00 bills would be obvious to accused-appellants who would

¹⁷ Records, p. 14.

¹⁸ Rollo, pp. 29-35.

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have been alerted that something was off and which could have led to the non-consummation of the alleged buy-bust operation. The narration of the police officers that accused-appellants accepted the payment of the illicit drugs without raising any alarm even if it would have been apparent that the money paid was only boodle money is, at best, questionable and not credible.

In addition to the questionable conduct of the buy-bust operation using boodle money, in cases of illegal sale of dangerous drugs under R.A. 9165, it is also essential that the identity of the dangerous drug be established with moral certainty, considering that the dangerous drug itself forms an integral part of the *corpus delicti* of the crime.¹⁹ Failing to prove the integrity of the *corpus delicti* renders the evidence for the State insufficient to prove the guilt of the accused beyond reasonable doubt which therefore warrants an acquittal.²⁰ In order to establish the identity of the dangerous drug with moral certainty, there must be observance of the chain of custody rule enshrined in Section 21 of R.A. 9156.

Here, since the buy-bust operation was conducted prior to the amendment of R.A. 9165, the apprehending team is mandated, immediately after seizure and confiscation, to conduct a physical inventory and to photograph the seized items in the presence of the accused or the person from whom the items were seized, or his representative or counsel, as well as certain required witnesses, namely: (1) a representative from the media; (2) a representative from the DOJ; and (3) any elected public official.²¹

In this case, the records provide that the inventory of the illicit drugs was made in the PDEA Office in Camp Vicente Lim in Calamba City, Laguna when the buy-bust operation was conducted in San Pedro, Laguna or some 20 kilometers away from the former. Further, the inventory was only witnessed by the accused, a representative from the media, and an elected public official. The illicit drug was not even photographed as required by Section 21. There was no explanation offered as to: (1) why the inventory was made in Calamba City and not in San Pedro; (2) why there was no photograph of the illicit drug; and (3) why the inventory was not witnessed by a representative from the DOJ.

These glaring non-compliance with the provisions of Section 21 of R.A. 9165 render the integrity and the evidentiary value of the seized items to be highly compromised, consequently warranting accused-appellants' acquittal.

As much as convictions for violations of R.A. 9165 almost always reach the Court, a continuous reminder must be given to prosecutors of their duty to prove compliance with the provisions laid down in Section 21 or to present justifications in cases of deviation thereof before the trial court. It must be borne in mind that the Court will not hesitate to overturn the conviction of the

¹⁹ *People v. Crispo*, G.R. No. 230065, March 14, 2018.

²⁰ See *People v. Gamboa*, G.R. No. 233702, June 20, 2018.

²¹ R.A. 9165, Section 21(1).

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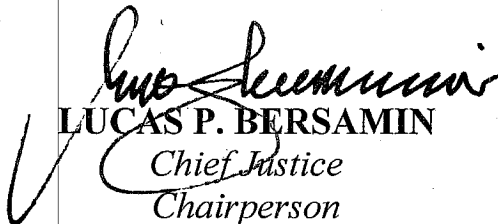
accused in case of non-compliance or failure to justify the deviations on the procedure laid down by the law, as in this case.

WHEREFORE, the appeal is **GRANTED**. The Decision dated January 16, 2012 of the Court of Appeals in CA-G.R. CR-HC No. 03717 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellants Eduardo Lacdan y Perez @ "Edwin" and Romualdo Vierneza y Bondoc @ "Ulo" are **ACQUITTED** of the crime charged against them and are **ORDERED** to be immediately released, unless they are being lawfully held in custody for any other reason.

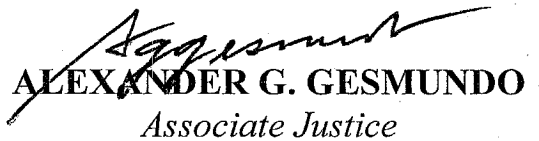
SO ORDERED.

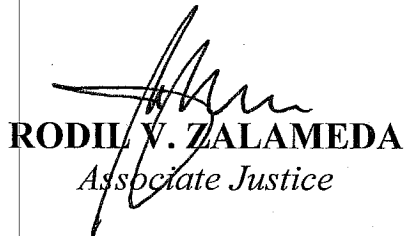

ROSMARI B. CARANDANG
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Chief Justice
Chairperson


(on official business)
ESTELA M. PERLAS-BERNABE
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice